

CEPS COMMENTARY



Thinking ahead for Europe

A post-mortem of the Vilnius Summit: Not yet a 'Thessaloniki moment' for the Eastern Partnership

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3 December 2013

The third Eastern Partnership (EaP) Summit at Vilnius on November 28-29th could have spurred a 'Thessaloniki moment' for the post-Soviet countries bordering the EU's eastern periphery, but it failed to deliver. The analogy refers to the 2003 Summit between the EU and the countries of the Western Balkans, at which the latter were offered a clear prospect of future integration with the EU. But instead of defining the geopolitical *finalité* of EU-EaP relations by projecting a path towards future accession to the EU for Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine, the initial ambition for the Vilnius Summit was thwarted.

Following the collapse of the Soviet Union, the EU constructed its relations with the Eastern neighbours on the basis of Partnership and Cooperation Agreements (PCAs). All of these accords (except the one with Belarus) entered into force in the second half of the 1990s for a period of 10 years and have been automatically renewed since the expiry of their first period of validity. In 2004, the agreements were enveloped into the wider European Neighbourhood Policy (ENP) and the bilateral action plans developed jointly by the EU and each of the neighbouring countries. The action plans are 'benchmarked roadmaps' aimed at introducing reforms needed to bring the neighbours closer to the EU. Whereas the policy developed to match new realities, the static contractual relations gradually went out of date. In the wake of the inaugural EaP Summit in Prague in May 2009 and the entry into force of the Lisbon Treaty later that same year, the EU has been working to upgrade both its bilateral and multilateral relations with the Eastern neighbours. The flagship document underpinning each newly defined bilateral relationship is the Association Agreement (AA), which includes a Deep and Comprehensive Free Trade Area (DCFTA).

After more than three years of negotiations, Moldova and Georgia initialled their respective AAs/DCFTAs with the EU at Vilnius. However, after intense pressure from Russia, the Armenian and Ukrainian Presidents abandoned negotiations with the EU before the Summit took place.¹ In response, the EU – pushed by some of its member states – watered down the

¹ See M. Emerson and H. Kostanyan, "Putin's grand design to destroy the EU's Eastern Partnership and replace it with a disastrous neighbourhood policy of his own", CEPS Commentary, 17 September 2013.

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final declaration of the Summit. Whereas an early draft declaration acknowledged the sovereign right of each of the six Eastern Partnership states to choose the scope of its ambitions and final goal of its relations with the European Union and to decide “whether to remain partners in accordance with Article 8 of the Treaty of the European Union [TEU] or follow its European aspirations in accordance with Article 49 thereof” (<http://www.rferl.org/content/eu-neighbors-eastern-statement/25153908.html>), the EU removed the reference to Article 49 from the final version. As a result, the Vilnius Summit fell far short of serving as a ‘rite de passage’ towards full integration with the EU.

To be sure, the fact that some member states succeeded in eliminating Article 49 from the declaration need not mean an end to the membership dream of some of the Eastern neighbours. Indeed, the language employed in the joint declaration is fuzzy enough to allow EaP countries to find support from the EU to materialise their wish to move beyond neighbourhood status: “The participants reaffirm the particular role for the Partnership to support those who seek an ever closer relationship with the EU. The Association Agreements, including DCFTAs, are a substantial step in this direction.” Arguably, the phrase “ever closer relationship” can be read in the Thessaloniki spirit, in the sense that the Eastern Partnership provides the framework for the “European course of the [EaP] countries, all the way to their future accession”.

This interpretation is confirmed if one considers that the summit declaration is only one element of the EU’s substantive offer to the EaP countries. As we argue elsewhere, a close reading of the AAs/DCFTAs and a comparative analysis of their material substance with that of the most recent Stabilisation and Association Agreements (SAAs) reveals that in many aspects (e.g. rights and obligations, timeframes for the reduction of duties and the uniform application of standards and the harmonisation of laws), the agreements with EaP countries are more advanced than the pre-accession agreements of the countries of the Western Balkans.² Leaving the rhetoric in the preambles and the political part of the AAs aside, the DCFTAs and the sectoral cooperation exhibit a large number of legally binding commitments that exceed those in the SAAs both in scope of coverage and level of enforcement.

For instance, the AA with Ukraine includes commitments in most so-called ‘WTO+’ policy areas – technical barriers to trade (TBTs), customs administration, intellectual property rights (IPRs) and trade in services – that far outweigh those enshrined in the SAA for Serbia, which is (at least in theory) reciprocated by wider and faster access to the EU market in industrial goods. Importantly, some “WTOx” policy areas (competition, energy) are covered by a sophisticated dispute settlement mechanism in the EU-Ukraine Association Agreement to embolden their legal enforceability, whereas such arrangements are missing in the SAA with Serbia. Furthermore, other provisions of WTOx policy areas (environment, transport, employment, etc.) prescribe the transposition of the EU *acquis* into Ukraine’s legislation according to strict schedules set out in the AA’s annexes.

This shows the blurred boundaries between the material substance of the most prestigious instruments aimed at contractually defining EU relations with different categories of Eastern European countries. In our view, the EU might not be able to legitimately maintain the political schism between its ‘enlargement’ and ‘enlargement minus’ (i.e. European Neighbourhood) policies. Indeed, the Eastern partners that sign, ratify and implement the AA/DCFTA will effectively be treated as more than just neighbours of the EU in the sense of Article 8 TEU, even if no explicit membership perspective is enshrined in their agreement.

² S. Blockmans, H. Kostanyan and I. Vorobiov, “Eastern Partnership: More than neighbours”, CEPS Essay, forthcoming.

Moldova and Georgia may move in that direction, despite the likelihood that they will come under more aggressive pressure from Russia in the coming months. The threat of stricter Russian immigration policy could see thousands of Moldovans and Georgians expelled; more trade sanctions could be employed by Russia; and new tensions in the breakaway republics of Transnistria, Abkhazia and South Ossetia may lead to a worsening of the security situation after the winter Olympics in Sochi.

The EU's offer of the AA/DCFTA remains on the table for Ukraine. The public anger and mass protests against Russia's role in persuading Yanukovich not to sign the AA/DCFTA with the EU has made it all but impossible for the Ukrainian President to take the alternative route offered by the Kremlin, i.e. joining the customs union with Russia, Belarus and Kazakhstan. Any compromise with the protesters would have to revive the AA/DCFTA and reduce Russia's sway.

For all the reasons mentioned above, the EU and its member states should not miss another opportunity to fully embrace the Eastern partners' European choice and match such action with an unequivocal offer of a framework leading all the way to the future accession of Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine to the EU.



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